RULES AND CUSTOMS,

Which by long and constant practice have obtained the Name of Orders of the House.

GATHERED
By Observation, and out of the Journal Books from the time of *Edward 6.*

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CHAP. I.

The manner of chooſing a Speaker in Parliament.

THE day the Speaker is choſen, the Proceeding hath been in this manner; Some perſon (when the generality of Members are come and ſit) doth put the Houſe in mind, That for their better proceedings in the weighty Affairs they are come about, their firſt work is to appoint a Speaker; and recommends to the Houſe ſome Perſon of fitneſs and ability for that Service and Dignity; which uſually hath been one of the long Robe. If the Houſe generally give a Teſtimony of their Approbation, two of the Members (which for the moſt part were of the Council or Chief Officers of the Court,) going to the Gentleman named, and agreed to be Speaker, take him from his place, and lead him unto the Chair, where being ſet, they return to their places.

If more then one perſon be named for Speaker, and it be doubtful who is more generally choſen; ſometimes one of the Members ſtanding in his place, doth by direction or leave of the Houſe, put a queſtion for determining the ſame.

In the firſt Seſſion of the Parliament 1° *Jacobi*, Sir *Edward Phelips*, the Kings Serjeant at Law was firſt named by Mr. Secretary *Herbert*, as fit for that place, in regard of his Knowledge of the Laws, the gift of Utterance, his long experience and Practice in Parliament; after ſome ſilence, the names of others were mentioned, but the more general voice ran upon Sir *Edward Phelips*, who thereupon ſtood

up, and made a Speech to excuſe and diſable himſe
but the Houſe, notwithſtanding his excuſe, was w
ling to proceed to a Queſtion, and directed the Cle
ſitting at the Board (as the Order is before the Spe
er be choſen, ſo it is entred in the Journal of th
Seſſion) to make the Queſtion upon his name, v
All that will have Sir Edward Phelips *Speaker*, ſ
Yea, &c. Which done, and he being by general A
clamation choſen Speaker, he was by Sir *John Herb*
and Sir *Edward Stafford* (leading him as the form i
placed in the Chair, the antient Seat of Speaker
where being ſet, after ſome ſilence he ſtood up an
made a gratulatory Speech of Form and Thanks.

The firſt buſineſs in the Houſe is ordinarily t
read a Bill that was not paſſed in the laſt Parliamen
preceeding, or ſome new Bill; as in that of 1° *Fac*
bi, a new Bill, Entituled, *Touching Common Recoveri*
againſt Infants, was read.

But on that day before that was done, there was a
Motion made for Priviledge of Sir *Thomas Shirley*
who was choſen a Member to ſerve in that Parliament
but detained by an Arreſt; upon which a *Habeas cor-*
pus was awarded, and the Serjeant that Arreſted him
and his Yeoman ſent for, and a Committee for Ele-
ctions and Priviledges choſen.

CHAP. II.

Decorum to be obſerved in the Houſe.

WHen the Speaker is ſet in his Chair, every Member is to ſit in his place with his head covered.

No Member in coming into the Houſe, or in removing from his place, is to paſs between the Speaker and any Member then ſpeaking; nor may croſs or go over-

etrhwart the Houſe; or paſs from one ſide to the her while the Houſe is ſitting.

No Member is to come into the Houſe with his ead covered, nor to remove from one place to ano- er with his Hat on, nor is to put on his Hat in com- g in or removing, untill he be ſat down in his lace.

While the Houſe is ſitting, no man ought to ſpeak whiſper to another, to the end the Houſe may ot be interrupted when any are ſpeaking; but eve- one is to attend unto what is ſpoken. In which aſe, Penalties have been impoſed; as 4. *Decem.* 640 and at other times.

When any Member intends to ſpeak, he is to ſtand p in his place uncovered, and addreſs himſelf to the peaker, who uſually calls ſuch perſon by his name, hat the Houſe may take notice who it is that ſpeaks.

If more then one ſtand up at once, the Speaker is o determine who was firſt up, and he is to ſpeak, and he other ſit down, unleſs he who was firſt up ſit own again, and give way to the other, or that ſome, ther Member ſtand up and acquaint the Houſe, that nother was up before him, whom the Speaker calls nd the Houſe adjudge it ſo.

While one is ſpeaking none elſe is to ſtand up or nterrupt him untill he have done ſpeaking and e ſat down, and then any other may riſe up and ſpeak, obſerving the Rules.

21. *Junii*, 1604. It was agreed for an Order, *That when Mr. Speaker deſires to ſpeak, he ought to be heard without Interruption, if the Houſe be ſilent and not in diſpute.*

12 *Jacobi*, It was vouched by Sir *Dudley Diggs*, (a perſon of much experience in Parliaments) *That when the Speaker ſtands up, the Member ſtanding up ought to ſit down.*

27 *April*, 1604. Agreed for a Rule, *That if any Queſtion be upon a Bill, the Speaker is to explain,*

but not to ſway the Houſe with Argument or Diſpute.

June 4. 1604. Agreed for an Order, *That whoſoever hiſſeth or diſturbeth any Man in his Speech, ſhall anſwer it at the Bar.*

7. *Maii*, 1607. Ordered upon the Queſtion, *That in going forth, no Man ſhould ſtir untill Mr. Speaker did ariſe and go before, and then all the reſt to follow after him.*

CHAP. III.

Standing Committees.

IN Parliament there have uſually been Five ſtanding Committees appointed in the beginning of the Parliament, and remaining during all the Seſſion; other Committees were made occaſionally, and diſſolved after the Buſineſs committed unto them was reported.

The ſtanding Committees are for

- *Priviledges and Elections.*
- *Religion.*
- *Grievances.*
- *Courts of Juſtice.*
- *Trade.*

The Committees for Religion, Grievances and Courts of Juſtice, are always *Grand Committees* of the Houſe, which are to ſit in the Afternoons upon ſuch Days as the Houſe doth appoint to them reſpectively.

The Committee for Trade hath ſometimes been a ſelect Committee particularly named, and all ſuch Members as ſhould come to it, to have Voices, as in *November*, 1640. Sometimes a Grand Committee of the whole Houſe, as 21 *Jacobi*.

CHAP.

CHAP. IV.

Power and proceedings of the Committee for Priviledges.

But the Committee for Priviledges and Elections hath alway had the preceedence of all other Committees, being commonly the firſt Committee appointed, and ordinarily the firſt day after, or the ſame day the Speaker did take his place.

This Committee is conſtituted of particular Members named by the Houſe.

21 *Jacobi.* Upon naming a Committee for Priviledges and Elections, a Motion was made, That all that come ſhould have Voices: but Sir *Thomas Crew* then Speaker (and well verſed in Rules of Parliament) minded the Houſe, That by the Orders of the Houſe, that was not to be done; and by divers other Members, it was inſiſted on, to be contrary to all former Precedents; yet upon the Debate a Queſtion was put, Whether all that ſhould come ſhould have voices at that Committee; and it paſſed in the Negative. And another Queſtion being put, Whether the perſons nominated only ſhould be of that Committee; it was reſolved in the Affirmative.

It was then alſo agreed, That *Counſil ſhould be admitted at that Committee.*

The Power anciently given to this Committee, appears by the Entry in the Journal Book 26 *Feb.* 1600. in 39. *Eliz. That this Committee ſhould, during all that preſent ſitting of Parliament, examine and make report of all ſuch Caſes touching the Elections and Returns of any the Knights, Citizens, Burgeſſes and Barons of the Houſe.* And alſo, *of all ſuch Caſes for Priviledges, as in any wiſe may occurr or fall out during all the ſame Seſſion of Parliament; to the end, the Houſe up-*

on Report of the ſame Examinations, might proceed to ſ further Courſe in every the ſame Caſes as ſha thought fit.

And notice was given, That all the Members the Houſe might repair thither as there ſhould cauſe.

This later Power touching Priviledge ſeems have been inſerted to prevent the Houſes being tro bled with Informations, untill they were examin and ripe for a Determination.

But in other Parliaments, both before and ſinc that Power doth not appear to have been given ther ſo abſolutely; but matters of Priviledge were, upo Information to the Houſe, there heard, and not in Committee, unleſs in ſome ſpecial Caſes, wherei there was cauſe of Examination, or of ſome prepara tion of a Charge; as in Caſe of *Smaley*, 23 *Eliz.* and many other Caſes.

The Power of this Committee uſually was, as it is entered 6 *November*, 1640. *To examine and conſider all Queſtions which ſhall grow and ariſe in that Parliament about Elections, Returns and other Priviledges.* Or, as in the Parliament 1° *Jacobi*, thus: *This Committee are to examine all matters queſtionable touching Priviledges and Returns, and to acquaint the Houſe with their proceedings, from time to time, ſo, as Order may be taken according to the occaſion, and agreeable to ancient Cuſtom and Precedent.*

And to the end theſe Queſtions might be ſpeedily determined: and the Houſe might know their Members, Days are uſually aſſigned, beyond which there ſhall be no queſtioning a former Election.

So in the Parliament of 21 *Jacobi*, the ſecond day of ſitting, It was Ordered, *That all Petitions about Elections and Returns ſhould be preferred to the Committee of Priviledges within a Fortnight from that Day, or elſe to be ſilenced for that Seſſion.*

16. *April.* 1640. Ordered, *that thoſe who would queſtion*

queſtion Elections ſhould do it within Ten days by Petition.

6. *Novemb.* 1640. Ordered, *That all ſuch as will queſtion Elections now returned, ſhould do it in Fourteen days and ſo within 14 days after any new Return.*

Some queſtions have been, where there have been double Indentures returned for ſeveral perſons for the ſame place, whether all or any, or which of them ſhould ſit.

The general rule and practice hath been in ſuch caſe, That neither one nor other ſhould ſit in the Houſe, until it were either decided or Ordered by the Houſe: Therefore in *April* 1640. the Lord High Steward, who had power by himſelf or his Deputies, to miniſter the Oaths of Supremacy and Allegiance to all Members returned, before they ſat in the Houſe, gave Order, That where there were more returned for any one place then ought to be, there ſhould be none of them ſworn till it were decided by the Houſe who were duely Elected. But that which may ſatisfie herein, is the Order of the Houſe in that Parliament, that if any ſit in the Houſe, that are returned by more Indentures then uſual, they ſhould withdraw till the Committee for Priviledges had further Ordered.

In the Parliament begun *April*, 1640. and *November*, 1640. It was moved; That where ſome are returned by the Sheriff or ſuch other Officer, as in Law hath power to Return, and others by private hands; there thoſe returned by the Sheriff or ſuch Officer, ſhould ſit till the Election be quaſhed by the Houſe.

But nothing was Ordered upon it.

24 *Feb.* 1623. Sir *Francis Popham* being returned a Burgeſs for *Chippenham* by one Indenture, and another perſon returned for the ſame place by another Indenture: it was moved he might be admitted into the Houſe till the matter were determined againſt him, and a precedent quoted in Sir *Thomas Wentworths*

Caſe

Caſe the laſt preceedent Parliament. But it was then inſiſted on by the Chancellor of the Dutchy and others, That this being a Caſe of a double Return, he was not to be admitted, and ſo it was referred to the Committee for Priviledges. His Caſe being reported 9. *April*, he was judged to be duely Elected.

21. *Jacobi*, Two Indentures were returned for *Southwark*, the one returned *Yarrow* and *Mingy*, the other *Yarrow* and *Bromfield*; upon a Report from the Committee for Elections, it was reſolved, That the Election and Return for *Yarrow* ſhould ſtand good, and that he ſhould ſit in the Houſe.

22. *Martii* 21. *Jacobi*, The Houſe was acquainted that Sir *John Jackſon* and Sir *Tho. Beaumont* were both returned for one Burgeſſes place for *Pomfret*; and therefore it was moved, That both might be ſuſpended till it were determined; Mr. *Glanvill* made anſwer to that Motion, That he that was returned might ſight in the Houſe until it were determined; which being contradicted by others, and much Diſpute on both ſides, it was laſtly urged by Sir *Robert Phelips*, That there was not any Preceedent for it, and therefore moved the Committee might take the Election into Conſideration to morrow, and that in the mean time the parties might forbear to come into the Houſe: which was Ordered accordingly.

4 *November*. 1640. Upon a Report from the Committee for *Privileges*, That ſeveral Indentures were returned for Burgeſſes for the Burrough of *Boſſinny* in the County of *Cornwal*, the one by the Major of the Town, the other promiſcuouſly: The Committee were of opinion upon view of the bare Indenture, That Sir *Charles Harbord*, who was returned by the Major, was well returned; but the Houſe declared he ſhould not ſit till the Election were decided.

In the ſame parliament, two Returns were made for

for *Marlo Magna*, in both Indentures *John Burlace* Eſq; was returned; therefore, upon Report from the Committee, he was admitted to ſit, but the other to forbear till the queſtion be determined.

17. *April.* 19. *Jacobi*, It was Ordered, *That no petition ſhould be received by a Committee, but openly at the Committee, and read at the Committee before the party go that preferred it, and the parties name that preferred it be ſubſcribed.*

In the parliament in 21 *Jacobi*, upon a Report made from the Committee for Elections and priviledges, praying the direction of the Houſe, whether Affidavits might be made uſe of at that Committee.

Theſe Reaſons being inſiſted upon, that Affidavits ſhould not be admitted.

1. Becauſe it makes the parliament lame without the Chancery.

2. It Entituled the Chancery to judge of Returns.

3. Affidavits are oftentimes cautelouſly made by Council or parties.

4. Witneſſes produced *Viva voce*, by Words, Actions, Geſtures, or the like, may diſcover much, whereby the Committee may judge.

It was likewiſe informed by Sir *Edward Coke* late Lord Chief Juſtice, That in the parliament when he was Speaker, which was 35 *Eliz.* Affidavits were not uſed, nor ſince, until of late.

5. Though the Committee examine not an Oath, yet they may puniſh any that ſhall teſtifie untruly: of which an inſtance was given in the laſt preceeding parliament in the Caſe of one *Dumpor*; It was Reſolved, *That all Affidavits to be taken in any Court concerning Elections, Returns, or any thing depending thereupon, ſhould be rejected, and not hereafter to be Uſed.*

CHAP.

CHAP. V.

Member choſen in ſeveral Places.

IT falling out ordinarily, that one Perſon is choſen and returned to ſerve for ſeveral places, it is in his Election to make his choice in the Houſe in his own perſon for what place he will ſerve, and wave the other Elections ſo as a writ may go out for a new Election for ſuch place waved, that the number may be full; but if he ſhall not do it by the time which the Houſe ſhall appoint, then it hath been ſaid, the Houſe will appoint for what place ſuch perſon ſhall continue a Member, and that Writs may go out for the other places: but *Quære* whether it hath been done.

Oftentimes on the Firſt day of the meeting of the Houſe, as ſoon as the Speaker hath been approved, and ſometimes before, ſuch Perſons as have been ſo doubly returned have made their choice.

In the firſt Seſſion of Parliament 1. *Jacobi*, the ſame day Sir *Edward Phelips* was choſen Speaker (before he was preſented to the King) he ſigned a Warrant as Speaker, by command of the Houſe, for Election of another Perſon in the place of Sir *Francis Bacon* being choſen in two places. And in the ſame Seſſion, the ſame day after the Speaker had taken his place, divers Members who were ſeverally returned, as elected in ſeveral places, made their choiſe for what places, they would ſtand, and new Writs ordered.

The Parliament beginning the 13. *April* 1640. and the Speaker being preſented the 15th, upon the 16th day divers made their choiſe upon ſuch double Returns.

The Parliament beginning the 3. *Novemb.* 1640. Upon a long debate for granting time for Elections on double Returns of this nature, it was reſolved *That all ſuch as are doubly returned ſhall make their choice for which place they will ſerve on Monday next.* 9 *Mar-*

9 *Martii*, 21, *Jacobi*, Reſolved, *That all Members of this Houſe doubly returned, ſhall make their Election for which they will ſerve, and that thoſe in the Houſe ſhall do it preſently, or elſe new Writs to iſſue for both.*

CHAP. VI.

New Writs for vacant Places.

A General Order hath uſually been made in the beginning of the Seſſion, to authorize the Speaker to give Warrant for new Writs, in caſe of Death of any Member, or of double Returns, where the party makes his choice openly in the Houſe during that Seſſion; ſo it was Ordered in the beginning of the Parliaments 18. and 21. *Jacobi.*

Where ſuch general Order is not made, Writs have iſſued by Warrant of the Speaker, by vertue of ſpecial Order, upon Motion in the Houſe.

This Warrant is to be directed to the Clerk of the Crown in Chancery, by Order of Parliament 13. *Novemb.* 1601.

CHAP. VII.

Rules and Methods of Debates in the Houſe.

WHen a Motion hath been made, the ſame may not be put to the Queſtion until it be Debated, or at leaſt have been ſeconded and proſecuted by one or more perſons ſtanding up in their places as aforeſaid, and then the ſame may be put to the Queſtion, if the Queſtion be called for by the Houſe, or their general ſence be known, which the Speaker is to demand, unleſs any Member ſtand up to ſpeak.

When a Motion hath been made, that Matter muſt receive a determination by a Queſtion, or be laid aſide by the general Sence of the Houſe before another be entertained. An inſtance is in the Journal 28.

June

June 1604. A Motion being made, another interpoſed a Speech tending to another Buſineſs: but it was anſwered, *That there was no Precedent for that Speech to be uſed before the other Motion, which was made before had received an Anſwer and an end.* And the Houſe did accordingly determine the firſt Motion in the firſt place.

4 *Decemb.* 1640. Ordered, *That till the Buſineſs in agitation be ended, no new Motion of any new Matter ſhall be made without leave of the Houſe.*

If the Matter moved do receive a Debate *pro & contra*, in that Debate none may ſpake more than once to the Matter, And after ſome time ſpent in the Debate the Speaker collecting the Senſe of the Houſe upon the Debate, is to reduce the ſame into a Queſtion, which he is to propound; to the end, the Houſe in their Debate afterwards may be kept to the Matter of that Queſtion, if the ſame be approved by the Houſe to contain the ſubſtance of the former Debate.

After ſuch Queſtion is propounded, any Member may offer his Reaſons againſt that Queſtion in whole or in part, which may be lay'd aſide by a general conſent of the Houſe without a Queſtion put.

But without ſuch general conſent no part of the Queſtion propounded may be lay'd aſide or omitted: and although the general Debates run againſt it, yet if any Member, before the Queſtion be put, *will have that part*, ſtand up and deſire that ſuch Words or Clauſe may ſtand in the Queſtion, before the main Queſtion is put; a Queſtion is to be put, whether thoſe words or ſuch Clauſe ſhall ſtand in the Queſtion.

The like Method is obſerved where any other Alteration is Debated upon, to be made in a Queſtion propounded; but upon putting a Queſtion for ſuch Addition, Alteration or Omiſſion, any perſon who hath formerly ſpoken to the Matter of the Queſtion, may ſpeak again to ſhew his Reaſons for, or againſt ſuch Alteration, Addition or Omiſſion, before ſuch Queſtion be put.

Whe

When the Speaker (the Houſe calling for a Queſtion) is putting the ſame, any Member that hath not before ſpoken to the Matter, may ſtand up before the Negative be put.

13. *Iunii* 1604. A Bill touching a Subſidy of Tonnage and Poundage having been formerly upon a third Reading recommitted, was returned, and a *Proviſo* being tendred for *Cheſter*, which was twice Read, the Queſtion was put for Commitment in the Affirmative: but before the Negative was put, one ſtood up and ſpake to it, which was admitted for Orderly, becauſe it is no full Queſtion without the Negative part be put as well as the Affirmative.

Every Queſtion is to be put firſt in the Affirmative: viz. *As many as are of opinion that* (repeating the Words of the Queſtion) *ſay Yea.* And then the Negative thus: *As many as are of another opinion ſay No.* To which Queſtion every Member ought to give his Vote one way or other, & the Speaker is to declare his opinion whether the Yea's or the No's have it, which is to ſtand as the Judgement of the Houſe. But if any Member before any new Motion made, ſhall ſtand up and declare, That he doth believe the Yea's and No's (as the Caſt ſhall be) have it contrary to the Speaker's Opinion, then the Speaker is to give direction for the Houſe to Divide, declaring whether the Yea's or the No's are to go forth.

Upon the dividing of the Houſe, thoſe are to go forth who are for varying from or againſt the conſtant Orders of the Houſe (as that a Queſtion ſhall not be put, or not be now put, it being the courſe of the Houſe, that after a Debate the ſame ſhould be determined by a Queſtion or the like) or againſt any poſitive Order made by the Houſe, or for the paſſing any new thing, as reading a Petition or Bill, and Committing, Ingroſing or Paſſing ſuch a Bill, or the like.

10 *Decemb.* 1640. an Order being made the 9. day That the Houſe ſhould be reſolved into a Grand Committee

mittee the next day, for Debating the way for Raiſſing Money: Upon the 10. day a Queſtion was upon Debate put, whether the Houſe ſhould be Reſolv'd into a Grand Committee; upon which the Houſe was divided, and a Doubt moved which were to go forth: It was declared for a conſtant Rule, *Thoſe that give their Votes for Preſervation of the Orders of the Houſe, ſhould ſtay in; and thoſe who give their Votes otherwiſe, to the Introducing any new Matter, or for any Alteration ſhould go forth.*

24. *Martii*, 21. *Jacobi*. Upon a Report from the Committee for Priviledges, a Queſtion was put, That Sir *Tho. Holland* and Sir *John Corbet* were well Elected Knights for *Norfolk*; The Houſe was divided, and a Conteſt which ſhould go forth; It was over-ruled by the Houſe the *No's* ſhould go forth.

Which is alſo the courſe upon any Queſtion to agree with a Report in favour of the Opinion of a Committee.

Upon dividing the Houſe, the Speaker is to nominate two of thoſe that are in the Affirmative, and two of the Negatives, to count the Houſe; which four (each of them having a Staff in his hand) are to count the number of the Perſons who remain ſitting in the Houſe, and then to ſtand within the Door, two on the one ſide and two on the other, and to count the number of them who went forth as they come in.

While the Houſe is thus divided or dividing, no Member may ſpeak, nor (unleſs it be to go forth upon the Diviſion) remove out of his place.

When the Houſe is thus told, thoſe two of the Tellers who are of the number of thoſe who have the major Votes, ſtanding on the right hand, and the two others on the left at the Bar (the reſt being all ſet in their places) are to come from thence up to the Table together, (making the uſual Obeyſance to the Houſe three times; once at the Bar, again in the middle of the Houſe, and again when they are come to the Table) And that perſon who ſtands on the right hand,

hand, is to declare to the Speaker the number of the *Yea's* (who ſate or went out as the Caſe is) and of the *No's*: and then with like reverence to depart into their places; after which, Mr. Speaker is to report the ſame to the Houſe.

If the Affirmatives have the major Votes by the judgment of the Speaker, or (in caſe of diviſion) upon the diviſion, the Clerks is to enter the Vote, *Reſolved*. If the Negatives, then he is to enter it thus; The queſtion being put (ſetting down the Words of the queſtion) It paſſed in the Negative.

Upon the diviſion, if the Members appear to be equal, then the Speaker is to declare his Vote, whether he be a *Yea* or a *No*, which in this Caſe is the caſting Voice; but in other Caſes, the Speaker gives no Vote.

1. *Maii*, 1606. A queſtion was moved, whether a Man ſaying *Yea*, might afterwards ſit and change his Opinion; and a Precedent was remembred by Mr. Speaker (Sir *Edward Phelips*) of Mr. *Morris* Attorney of the Wards, in 39 *Eliz.* that in like Caſe changed his Opinion.

If upon a Debate it be much controverted, and much be ſaid againſt the queſtion, any Member may move, That the queſtion may be firſt made, whether that queſtion ſhall be put, or whether it ſhall be now put; which uſually is admitted at the inſtance of any Member, eſpecially if it be ſeconded and inſiſted on; and if that queſtion being put, it paſs in the Affirmative, then the main queſtion is to be put immediately, and no man may ſpeak any thing further to it, either to add or alter: But before the queſtion, whether the queſtion ſhall be put, any perſon who hath not formerly ſpoken to the main queſtion, hath liberty to ſpeak for it, or againſt it; becauſe elſe he ſhall be precluded from ſpeaking at all to it.

If in a Debate there ariſe more queſtions then one, and it be controverted which queſtion ſhould be firſt put; the queſtion firſt moved and ſeconded is regularly to be firſt put, unleſs it be laid aſide by general conſent:

If the first Question be insisted upon to be put, and the major part seem against it, the Question is to be, Whether that Question shall be now put: if that pass in the Negative, then the other Question may be put, if desired: nevertheless, any person may speak to it again before it be put. If in the Affirmative then it is to be put without any addition or alteration, as before. And after that Question is put, if any Member move to have the other Question put, every one hath leave to speak to it again as if it were a new Question.

If a Matter be received into Debate, and a Question grow, whether the House shall proceed in that Debate at this time, and it fall out that the House be divided, in such Case the *No's* are to go forth, it being contrary to the course of the House, that any business should be laid aside till it be determined by a Question; If the Question be for an adjournment of a Debate, the *Yeas* are to go forth upon the same reason.

After a Question is propounded, no man may speak more than once to the Matter; but having spoken to the Matter, when the Question comes to be put, he may speak to the Manner or Words of the Question, keeping himself to that only, & not ravelling into the Merits of it.

If a Question upon a Debate contain more parts than one, and Members seem to be for one part, and not for the other, it may be moved that the same may be divided into two or more Questions: as 2 *Decemb.* 1640. The Debate having been, whether the Election of two Knights for the County of *Warwick* were void; a Question was put, whether it should be two Questions: and that being Resolved in the Affirmative, the Question were put severally, upon the Election of the one first and then of the other.

No Member in his Discourse in the House may mention the name of any other Member then present, but to describe him by his Title or Addition; as, that Noble *Lord*, Worthy *Knight*; or by his Office, as, *Judge*, *Serjeant*, *Gentleman* of the long or short Robe, or by his Place, as the Gentlemen near the Chair, near the Bar, or

the other ſide; or thus, the Gentleman that ſpake laſt, or laſt ſave one, or the like.

During any Debate, any Member though he have ſpoken to the Matter, may riſe up and ſpeak to the Orders of the Houſe, if they be tranſgreſſed, in caſe the Speaker do not; but if the Speaker ſtands up, he is firſt to be heard, and when he ſtands up, the other muſt ſit down till the Speaker ſit down. But if any perſon riſe up to ſpeak to the Orders of the Houſe in the midſt of a Debate, he muſt keep within that Line, and not fall into the Matter it ſelf; if he do, he may be taken down by the Speaker, or any other Member, calling to the Orders of the Houſe.

Whiles a Member is Speaking to a Debate or Queſtion he is to be heard out and not taken down, unleſs by Mr. Speaker, in ſuch Caſes as you find therein expreſſed, or that he ſpeak of ſuch Matter as the Houſe doth not think fit to admit.

24 *Januar.* 23. *Eliz.* Upon a Debate in the Houſe, Mr. *Carleton*, endeavouring to ſpeak contrary to the Senſe of the Houſe, was interrupted; and afterwards offering to ſpeak again, ſaying with ſome repetition, That it was for the liberty of the Houſe, the Speaker and the Houſe did ſtay him.

April. 1604. Agreed for a Rule of the Houſe, *He that digreſſeth from the Matter to fall upon the Perſon, ought to be ſuppreſſed by the Speaker.*

17. *April* 1604. Agreed for a general Rule, *If any ſuperfluous Motion or tedious Speech be offered in the Houſe, the party is to be directed and ordered by the Speaker.*

2. *Maii.* 1610. A Member ſpeaking, and his Speech ſeeming impertinent, and there being much Hiſſing and Spitting; It was conceived for a Rule, *That Mr. Speaker may ſtay impertinent Speeches.*

18. *Maii.* 1604. It was Reſolved, That eight ingroſſed Bills ſhould be read the next day half an hour after eight: The next day about that time, a Member entring into a long diſcourſe *De mera fide & ſola fide*, &c. was interrupted, and the Queſtion offered, whether he

ſhoud go on in reſpect of the Order. But it was agreed for a Rule, *If any may ſpeak not to the Matter in Queſtion, the Speaker is to moderate.*

14. *April.* 1604. In a Matter formerly propoſed touching the abuſe of the Purveyors, it was argued Whether it were fitteſt to proceed by way of Petition to the King or by Bill: which was ſpoken to by Mr. *Martin*, Mr. *Hoskins* and others, and laſtly by Sir *Henry Jenkin* who was obſerved to miſtake the Queſtion; and therefore (to prevent the idle expence of time) was interrupted by Mr. Speaker, and thereupon a Rule conceived, *That if any Man ſpeak impertinently or beſides the Queſtion in hand, it ſtands with the Orders of the Houſe for Mr. Speaker to interrupt him, and to know the pleaſure of the Houſe, whether they will further hear them.*

A Matter upon Debate having been once finally determined by a Queſtion, ought not to be again brought into diſpute.

27. *Martii.* 1604. Sir *Edward Coke* Attorney-General, and Doctor *Hone* bring a Meſſage from the Lords, deſiring a Conference about the Caſe of Sir *Francis Goodwyn*: Upon this Meſſage it was argued, That now the Judgment having paſſed the Houſe, it could not, nor ought to be reverſed by them; and upon the Queſtion it was Reſolved, There ſhould be no Conference. *In ſapientum decretis non eſt litura.*

2. *April.* 1604. A Vote having paſſed ſome days paſt, That no Conference ſhould be admitted with the Lords, the ſame Queſtion was again moved, but was carried in the Negative; And it was then urged for a Rule, That a Queſtion being once made and carried in the Affirmative or Negative cannot be queſtioned again, but muſt ſtand as the Judgement of the Houſe.

In the Anſwer of the Commons Houſe of Parliament to King *James* his Objections in Sir *Francis Goodwyn's* Caſe, 3 *April* 1604. The Objection being, that they refuſe Conference with the Lords.

The Anſwer is in theſe words, Concerning our Refuſing Conference with the Lords, there was

none desired untill after our Sentence passed; and then we thought that in a matter private to our own House *which by Rules of Order might not be by us revoked*, we might without any imputation refuse to confer.

CHAP. VIII.

Grand Committees, and their manner of Proceedings.

A Grand Committee consists of as many Members, at least, as constitute the House (less may not sit or act as a Committee) who have general Powers to consider of any Matters touching the subject Matter referred, and to present their Opinions therein to the House, the better to prepare Matters of that nature, or Bills therein, for the House; which may better be prepared, by the liberty that every Member hath in a Grand Committee, as well as in other Committees, to speak more then once to the same Business (if there be cause) which is not permitted in the House.

But Grand Committees have their Powers and Rules, in other Circumstances, given them in express words by the House; as, to send for Witnesses, to hear Council, or assign them on either part, to send for Records; which appears by several Motions made in the Parliament 21. *Jacobi*. Sir *Robert Phelips* (a person of much Experience in the Course and Orders of Parliament) moved the House from the Grand Committee for Courts of Justice, that they might have Power in the particulars aforesaid.

8. *Martii*. and 13. *Martii* in the same Parliament, upon Report from the Committee aforesaid, (which then was a Grand Committee) the House was moved for their Order to the Merchant Adventurers to bring in their Patents, and that the Inventor of the pretermitted Customs should attend the Committee.

15. *Maij*. 22. *Jacobi*, Upon complaint from the Grand Committee for Grievances, that they had sent several Warrants for divers Persons to bring in their Patents, which they had not done; The House Ordered the *Serjeant at Arms to be sent for them*.

When any great buſineſs is in agitation that requires much Debate, or a Bill for a publick Tax is to be Committed, the Houſe doth uſe to reſolve it ſelf into a Grand Committee of the whole Houſe; which is done by a queſtion, and then the Speaker leaves his Chair, and thereupon the Commitee (which muſt conſiſt of a great a Number as Conſtitutes a Houſe, as is before declared) makes choiſe of a Chair-man, in which caſe if more then one be generally called to the Chair, any Member may ſtand up, and by conſent of the Committee, put a queſtion for one of thoſe named to be the Chair-man.

19 *Jacobi*, A diſpute being in the Committee, which of two Members named ſhould go to the Chair, the Speaker was called to his Chair, and put the queſtion, That Sir *Edward Coke* (who was one of the perſons named) ſhould take the Chair, and then the Speaker left his Chair.

The Chair-man of the Grand-Committee is to ſit in the Clerks place at the Table, and to write the Votes of the Committee.

If upon putting a queſtion, the Chair-man (who is to judge by the Voices) have delivered his Opinion that the *Yea*'s have it, and any Member ſtand up and ſay, He believes the *No*'s have it, (or contrariwiſe) the Committee is to divide within the Houſe; the Chair-man directing the *Yea*'s to go that ſide of the Houſe, that is on the one hand, and the *No*'s to the other ſide, and then he is to appoint one of each to count the numbers and report them; which is to be done in the ſame order as in the Houſe, ſaving that the Obeyſance is only twice in the Committee, thrice in the Houſe. If the numbers be equal, the Chair-man hath a caſting voice, otherwiſe he hath no voice in the Committee.

When the Committee hath gone through the Matter referred to them, the Chair-man having read all the Votes, is to put the Queſtion, that the ſame be reported to the Houſe; if that be reſolved, He is to

leave the Chair, and the Speaker being again called to the Chair, (or at the next Sitting of the Houſe if it be then adjourned) the Chair-man is to report what hath been reſolved at the Committee, ſtanding in his uſual place, from whence (if it be not in the ſeat next the Floor) he is to go down to the Bar, & ſo to bring up his Report to the Table.

If the Committee cannot perfect the buſineſs at that Sitting, they may not adjourn as other Committees; but a Queſtion is to be made for Reporting to the Houſe, and that leave be asked, that the Committee may ſit at another time on that Buſineſs.

But if, as ſome times it falls out, the Matter hath received a full debate in the Committee, and it is judged fit to be reſolved in the Houſe, the Speaker is again called to the Chair for that purpoſe.

In other things then as aforeſaid, the Rules of Proceedings are to be the ſame as are in the Houſe.

4. *Junii*, 1607. Agreed for a Rule.

1. *Every Queſtion upon the voices of a Committee bindeth, and cannot be altered by themſelves.*

2. *Every thing directed and agreed to be Reported, ought to be accordingly Reported; but not every thing ſpoken or debated at a Committee.*

28. *July*, 1641. Declared by the Houſe, that no *Committee ought by Vote to determin the Right or Property of the Subject, without firſt acquainting the Houſe therewith.*

6. *Aug.* 1641. Reſolved, *That no Vote paſt at a Committee, and not Reported nor confirmed by the Houſe ſhall be any Rule, or Direction for any Court of Juſtice in* Weſtminiſter-*Hall to ground any Proceedings thereon.*

CHAP. IX.

In what Caſes Members are to withdraw.

18° *Jacobi*, Upon the Report from the Committee for Priviledges, touching Election for *Garton*, Sir *Henry Brittain* being concerned, and offering to ſpeak in his own Caſe; it was reſolved up-

on long Debate, *he should be heard to inform the House, and then go forth.*

21 *Jacobi*, *A Bill* which concerned *the Master and Fellows of Magdalen Colledge in Cambridge*, being read the second time, and in Debate, It was removed, that Dr. *Gooch* Master of *Magdalen* Colledge (who served for the University) and so a party ought to withdraw; It was resolved, *He may first speak, and then withdraw.*

June 1604. A Bill for establishment of divers Mannors, &c. of the late Duke of *Somerset*, being offered to the question of Commitment; it was moved, That Mr. *Seymour*, a Member of the House and party to the Bill, might go forth during the Debate; which was conceived to be agreeable to former Orders and Precedents in like Cases, and was so Ordered, and Mr. *Seymour* went presently forth of doors.

When any Complaint is made against a Member, or Exceptions taken to any thing spoken by him (after he hath been heard to explain himself, if he desire, or the House command it, which is usually done by him standing in his place) if the House be not satisfied, but fall in Debate thereof, such Member is to withdraw; as in the several Cases of Doctor *Parry*, the Chancellor of the Dutchy, and others appears.

CHAP. X.

Censures of Members for Offensive Words or Misbehavior.

THough freedom of Speech and Debates be another undoubted Priviledge of the House, yet whatsoever is spoken in the House, is subject to the censure of the House: and where they find cause (as, *In licitis facile fines transgredimur*) offences of this kind have been severely punished, by calling the person to the Bar, to make submission; committed him to the Tower, (being the usual Prison to which the Commons did commit Delinquents) expelling the House; disabling him to be a Member during that Parliament,

Parliament, and ſometimes of any future Parliament.

The Entries in the Journal I find to be as followeth:

17. *May*, 1572. Upon ſundry Motions made by divers Members of the Houſe, it was Ordered, That *Arthur Hall* Eſq; for ſundry Speeches uſed by him in the Houſe and abroad, ſhould be warned by the Serjeant to be at the Houſe on Monday following, and at the Bar, to anſwer Matters charged againſt him; and all ſuch perſons as had noted his Words, either in the Houſe or abroad, were forthwith to meet, and ſet down the ſame Words in writing, and deliver the ſame to the Speaker.

On Monday following, Mr. *Hall* was brought to the Bar by the Serjeant, was charged with ſeveral Articles, and confeſſed his folly; and humbly ſubmitted himſelf to the Houſe, and was remitted.

8. *Feb.* 1575. *P. W.* Eſq; one of the Burgeſſes of *Tregony* in the County of *Cornwal*, was, for unreverend and undutiful Words uttered by him in the Houſe, touching the Queen, ſequeſtred; that the Houſe might proceed to conference and conſideration of his ſaid Speech: upon Debate whereof he was committed to the Serjeants Ward, as priſoner, and ſo remaining, ſhould be examined upon his ſaid Speech, for extenuating his fault therein.

The next day a Report was made of his examination and confeſſion of the words; he was brought to the Bar by the Serjeant, received this Judgment by the mouth of Mr. Speaker.

That he ſhould be committed cloſe priſoner to the Tower, till the Houſe ſhould take further conſideration concerning him.

4 *Febr.* 1580. Being the third Seſſion of the Fourth Parliament of Queen *Elilabeth* 23 Year of her Reign, complaint was made in the Houſe againſt *Arthur Hall* Eſq; before named, who had cauſed a Book to be printed, wherein was publiſhed the Conferences of the Houſe; and in it was contained matter of Reproach againſt ſome particular Members of the Houſe,

derogatory

derogatory to the general Authority, Power, and State of the House, and prejudicial to the validity of the proceeding of the same. The matter was referred to a Committee to examine, and upon Report thereof, and bringing the said Mr. *Hall* to the Bar several times to Answer; he was sentenced by the House to be committed to the Tower, (as the prison proper to this House) there to remain for the space of six months, and so much longer, as until he should himself willingly make a Retractation of the said Book, to the satisfaction of the House, or of such Order as the House should make during that Session.

That the said *Arthur Hall* should be fined to the Queen Five hundred pounds for his said Offence.

That he should be presently severed and cut off from being a Member of this House during this Parliament, and a Writ to Issue for Election of a new Burgess, for the Borrough of *Grantham* in his stead.

That the said Book should be deemed and adjudged false and erroneous.

Thereupon, the said Mr. *Hall* was brought to the Bar, unto whom Mr. Speaker, in the name of the whole House pronounced the said Judgement, in form aforesaid; and the Serjeant was commanded to take the charge of him, and to convey him to the Tower, and deliver him to the Lieutenant of the Tower, by Warrant of this House to be signed by the Speaker.

18 *March*, 1580. He having continued prisoner in the Tower without any Retractation, the House appointed a Committee to allow the said Retractation, and to Report it to the House at the next Session.

It appeareth by the Journal 21 *November*, 1586. That he was disabled for ever to serve in Parliament.

17. *December*, 1584. A Bill against Jesuits and Seminary Priests passed upon the Question: Dr. *Parry* only gave a Negative, and after Inveighed in violent Speeches against the whole Bill. Upon which he was sequestered from the House into the outer-room, into the hands of the Serjeant, and not to confer with any

while

while the *House* was in Debate of that buſineſs. After wards he was brought to the Bar, and there kneeling was told by the *Speaker*, if he thought fit the *House* was content to hear his Reaſons; but he refuſing was committed to the *Serjeants* Ward.

The next day he was brought to the Bar, and kneeling, confeſſed he had undutifully behaved himſelf; and raſhly and unadviſedly utterred thoſe *Speeches* he had uſed; and was with all his heart, very ſorry for it: Alledging withal he had never been of the *House* till that Seſſion, and ſo could not ſo well know the Orders of the *House* as he ſhould do; and that he would not henceforth willingly offend the Houſe, nor any one man in it; and ſo humbly prayed for their good favour toward him. Whereupon, being again ſequeſtered out of the Houſe, after ſome Arguments and Debates, it was Reſolved, upon this acknowledgment of his fault, and his humble ſubmiſſion he ſhould be received into the Houſe again, as a Member thereof, and take his place as before, ſo that he would ſtill afterwards behave himſelf in good ſort as he ought to do: and thereupon being called again to the Bar, and there kneeling, directly reiterating his former Confeſſion of his fault, and humble ſubmiſſion, with promiſes of better demeanor, he was admitted.

13. *Feb.* 1606. Upon a Report made in the Houſe, of the Remembrances formerly ſet down of the particulars of a Conference, the Speaker offering to read the Paper, and being interrupted by ſome Motions and Diſputes, whether they ſhould be Read one by one and ſo Debated, or all at once: In that difference, one of the Knights for *Buckingham-ſhire*, with a loud voice (not ſtanding up bare-headed as the Order is) preſſed to have them Read. The Houſe obſerving his earneſtneſs, and manner of ſitting and Calling, for Orders ſake urged him to ſtand up and ſpeak. He ſtood up, and pretending to offer ſome Reaſons, fell into an Invective againſt the *Scots*, much diſtaſting the Houſe; yet out of a common care to expedit the Weighty Buſineſs then in

in hand, his Speech was neglected without Tax of Cenſure.

But on *Monday* following it was remembered, and his Words of offence recited in particular, the Gentleman being abſent, was ſent for by the Serjeant.

Touching the manner of Proceeding in this Caſe, many Motions and Queſtions were Moved. As, 1. Whether to name a Committee to conſider wherewith to charge him. 2. Whether to cenſure him upon their own knowledge, without other Circumſtances, the fault being apparent. 3. Whether to charge him in general, or with the particular Words. Much was ſaid upon theſe Queſtions *pro* and *contra*, and the Precedents of *Parry* and *Throckmorton* remembred wherein for words ſpoken in the Houſe, the Proceedings was by the Houſe, and not by Committee; the Offences generally charged, and puniſhed, and the Words put in Oblivion: and ſo in this Caſe, the Judgment and Proceeding reſolv'd to be accordingly.

The Serjeant having brought the Offender; it was moved he might be heard at the Bar, which was aſſented unto; and after he had ſpoken, he was Commanded to retire; and not long after, was called in again, to the Bar, where kneeling, Mr. Speaker acquainted him, ſince the Offence was ſo apparently heinous, the Houſe did not hold it fit, that any particulars ſhould be named, or to give any reaſon of their Judgment; but the Order was, He would be carried to the priſon of the Tower, and there remain during the pleaſure of the Houſe: & that he ſhould be diſmiſſed from his place of Knight of the Shire for *Bucks*, and a new Writ to iſſue for a new choice.

15. *Febr.* 18. *Jacobi.* A Bill being read the ſecond time *for the better obſervation of the Sabbath*: one of the Members made an Invective againſt it, and ſomething which ſeemed to reflect on a Member of the Houſe, who preſented it, as ſavouring of a Puritan and a Factious ſpirit. Exceptions were taken at the Words. After he had explained himſelf, he was Ordered to withdraw

out

out of the Houſe; and a Debate being had, he was called to the Bar, and upon his knees, he received the Judgement of the Houſe, pronounced by the Speaker. That he ſhould be diſcharged from the ſervice of the Houſe; with an Intimation, that his Judgement was very merciful, for that the Houſe might for ſo exorbitant an Offence, have Impriſoned and further puniſhed him.

3. *April.* 1604. In a Debate upon a Bill, a Member of the Houſe uttered ſome Speeches highly diſtaſting the Houſe: but no notice was taken of it till the Bill was committed, & then the Words being repeated, he was called to the Bar, where he made his excuſe, & was pardoned.

26. *April.* 1641. Great Offence was taken by the Houſe at words ſpoken by Mr. *H.* He was firſt heard to explain himſelf, and then commanded to withdraw, and was called to the Bar and ſuſpended the *Houſe* during that Seſſion of Parliament.

27. *May*, 1631. A Paper was brought in containing words ſpoken by Mr. *Taylor* a *Member* of the *Houſe* concerning the paſſing the Bill of Attainder of the Earl of *Strafford*: who being heard to explain himſelf, and then commanded to withdraw; after ſome Debate in the *Houſe*, it was reſolved, That he ſhould be expelled the *Houſe*; be made uncapable of ever being a Member of this *Houſe*; and ſhould forthwith be Committed priſoner to the Tower, there to remain during the pleaſure of the *Houſe*; and ſhould make an acknowledgment of his Offence, both at the Bar and at *Windſor* publickly. And he was called to the Bar, and there kneeling, Mr. Speaker pronounced the Sentence accordingly.

Of later times it hath been obſerved, as moſt conducing to the Service of the Houſe, that if in Debate words be let fall that give offence, exceptions ſhould be taken the ſame day, and before ſuch Member go out of the *Houſe*; or he who is offended may move, that ſuch perſon may not go out of the Houſe until he hath given ſatisfaction in what was by him ſpoken. And in ſuch Caſe, after the preſent Debate is over, the words muſt be repeated by the Perſons excepting; And in Caſe he deſire,

fire, or the Houſe command him, he is to explain himſelf, ſtanding in his place, which if he refuſe to do, or the Houſe be not ſatisfy'd with ſuch explanation, then he is to withdraw: But neither is this to interrupt the preſent buſineſs of the *House*, as in the Caſes before mentioned; or if be omitted that day, hath it been recalled afterwards to avoid miſtakes, and out of a willingneſs rather to paſs by, then take occaſion of offence.

13. *May*, 12. *Jacobi*. Upon report of the Amendment to the Bill for the due Obſervation of the Sabbath day, complaint was made the ſame Indignity was offered to Sr. *K. Owen*, when he was in the Chair at the Committee, by Sir *W. H.* that told him he was Partial; and by Sir *R. K.* who took him by the hand, and told him, he would pull him out of the Chair, that he ſhould put no more tricks upon the *House*.

Sir *W. H.* being preſent, made an acknowledgment of his Error, which upon the Queſtion was taken for a good ſatisfaction.

Sir *R. K.* was Ordered by the Houſe to acknowledge his Error at the Bar.

19 *Jacobi*, Some Speeches paſſing in the Houſe privately between two of the Members, and ſome offence taken, which ſeems was not intended to be given; one of them in going down the Parliament ſtairs ſtruck the other; who thereupon catched at a ſword then in his mans hand to ſtrike with it. Upon complaint made of it to the Houſe, they were both of them ordered to attend the Houſe. Being come, he who gave the blow was called in, and ſtanding (not at the Bar, but) by the Bar, was examined by Mr. Speaker; confeſſed the giving the blow, inſiſted on the provocation, and withdrew. The other was alſo called in, to relate the truth. After he had made the relation, and was likewiſe withdrawn, & teſtimony given by a Member of the *House* who heard the words the Houſe proceeded to Sentence againſt Mr. *C.* who ſtruck the blow: he being brought to the Bar, there on his knees he receved Judgement, which was pronounced by the Seaker That he ſhould be committed to the Tower during the pleaſure of the Houſe. *CHAP.*

CHAP. XI.

Calling the House.

THere are two ends of Calling the House.

1. To discover whether any were in the House, who are not returned by the Clerk of the Crown in Chancery; it having been accounted a great Crime, and severely punished.

5. *Martii.* 1547. In the Parliament held 4 & 5 *Phil. & Mariæ*, I find this Entry.

For that *Christopher Perne* affirmed, that he is returned a Burgess for *Plimpton*, in *Devon*, and hath brought no Warrant thereof to the House, nor is returned hither by the Clerk of the Crown, by Book or Warrant; he is awarded to be in the custody of the Serjeant, till the House have farther considered.

It appears by that Book afterwards, that he was chosen a Burgess, and admitted.

2. *January*, 1562. In the second Parliament of Queen *Elizabeth*, For that it seemed to the House, being very full, that there were a greater number then was returned; therefore the Names were immediately called over and as they were called, departed out of the House.

7 *Febr.* 1588. The House was called, and every one answered to his name, and departed out of the House as they were called.

2 But chiefly the Calling the House, is to discover what Members are absent without leave of the House, or just cause; in which case, Fines have been imposed. And on this occasion, if the House be called, the manner hath been to call over the Names, and each Member to stand up at the mention of his name, uncovering his head. Such as are present are marked, and the Defaulters called over again the same day, sometimes the day after, sometimes summoned, sometimes sent for by the Serjeant.

19. *June*, 1607. The House was called by the General Book of Names, in order as they were set down by

the

the Clerk of the Crown at the beginning of the Parliament (so it is there entred) The Clerk called every one by his name; the person called, if present, riseth up bare-headed and answereth; if absent, he is either excused, and so entred, *viz.*

either { *Licentiatur per speciale servitium.* / *Excusatur ex gratia.* / *Egrotat.*

If none excuse him, he is entred, *Deficit.*

That no Person may sit in the House until he be so returned as aforesaid, appears by several Instances of Persons who were not Members; and for coming into the House, were brought to the Bar, and some committed, and some sworn before they departed, to keep secret what they had heard there.

CHAP. XII.

Petitions in Parliament.

PEtitions are usually presented by Members of the same County; if they be concerning private Persons, they are to be subscribed, and the Persons presenting them, called into the Bar to avow the substance of the Petition, especially if it be a Complaint against any.

So 18. *November*, 1640. One *Vivers* presented a Petition in the name of the Major, Aldermen, Burgesses and other Inhabitants of *Bambury*, was called in, and did acknowledge the hand to the Petition to be his; and that he did deliver it by order, and on behalf of the Town of *Bambury*, and thereupon it was committed.

The like, in the same Parliament, upon reading the Petition of one *Ward* of *Salop*: And likewise on reading the Petition of *Henry Hoogan*.

CHAP. XIII.

Priviledge of Parliament.

IT is often mentioned in the Journals upon Debates, That Priviledge was due *eundo, morando, redeundo*, for

for the Perſons of Members, and their neceſſary Servants; and in ſome caſes for their Goods and Eſtates alſo during that time.

Some queſtion hath been touching the time in which the Priviledge is to be allowed, and the manner how it is to be obtained.

For the firſt, the Precedents are very numerous for allowing *Priviledge* during the Seſſion.

1. For their own perſons, They have been priviledged from Suits, Arreſts, Impriſonments, attendants on Tryals, ſerving in Juries, and the like; yea, from being Summoned or called to attend upon any Suit in other Courts by *Subpœna* ſerved on them. To begin with the latter. *Subpœna.*

In the Parliament 4. & 5 *Phil. & Mariæ*, 29. *January*, 1557. *Thomas Enny*'s Burgeſs for the Borough of *Tusk* complained that a *Subpœna* was delivered him to appear in Chancery, and required the priviledge of the *House*; whereupon Sir *Clement Higham* and Mr. Recorder of *London* were ſent to the L. Chancellor to revoke the Proceſs.

And albeit an Entry is made in the Journal 10 *Februarii*, 1584. 26. *Elizabeth*, that upon Motion made touching the Opinion of the *House* for Priviledge, in caſe of a *Subpœna* ſerved out of the Chancery upon Mr. *Richard Cook* a Member of the Houſe: It was Ordered that the Recorder of *London*, and two other Members of the Houſe attended by the Serjeant, ſhould repair preſently in the name of the whole Houſe into the body of the Court of Chancery, and there to ſignify to the Lord Chancellor and maſter of the Rolls, That by the Antient Liberties of this Houſe, the Members of the ſame are priviledged from being ſerved with *Subpœna*'s: and to require withal, not only the diſcharge of Mr. *Cook*'s Appearance, but from thenceforth to grant Priviledge for other Members, upon the requeſt of the Houſe ſignified under the Speaker's hand: which Mr. Recorder and the reſt did accordingly. But they return this Anſwer, That the Lord Chancellor told them, he knew no ſuch Priviledge touching *Subpœna*'s, and would not allow it,

unleſs the Houſe did prove it had been allowed alſo in that Court of Chancery: whereupon Precedents were directed to be viewed; but within few days after the Parliament ended.

Yet the practice in ſucceeding times declares the Priviledge, as appears by the Inſtance following (which was the next Year after) and theſe that follow, with the multitude more which might be mentioned.

27 *Eliz.* One *Kirle* having cauſed a *Subpœna* out of the Star-Chamber to be ſerved on a Member of the Common Houſe; & for want of appearance, taken out an Attachment & inforced the payment of money to diſcharge the ſame: the ſaid *Kirle* was Committed till he had pay'd coſts to the Perſon ſerved, and made a ſubmiſſion to the Houſe on his knees at the Bar.

15. *Maii* 1604. A *Subpœna* out of the Chancery to appear, was ſerved on the Perſon of Sir *Robert Needham* Knight, a Member of Parliament; upon Complaint thereof, the Serjeant was ſent to Attach the body of him who ſerved the *Subpœna*.

7. *Maii.* 1607. The Serjeant was ſent for *Edward Throckmorton*, for ſerving a *Subpœna* on Sir *Oliver Cromwel*.

14. *Maii*, 19 *Jacobi*, Upon Complaint of the ſervice of a *Subpœna* on a Member of this Houſe, Sir *Edward Coke* vouched a Precedent; 10 *Edwardi* 3. That a *Subpœna* being ſerved on the Clerk of this Houſe, the party was Committed for breaking the Priviledge of this Houſe.

4. *Maii*, 1607. A *Subpœna* out of the Exchequer being ſerved on Sir *R. Pawlet* a Member of the Houſe; the Houſe thought fit to grant Priviledge, and that the ſame courſe ſhould be taken as in other the like caſes are uſual *viz.* The Serjeant by his Mace to Attach the Parties Delinquent, and to bring them to the Bar, to receive the Judgment of the Houſe, and Mr. Speaker the next day wrote a Letter to the Lord Chief Baron that no further proceſs do iſſue againſt the ſaid Sir *R. Pawlet*.

3 *Decemb.* 19 *Jacobi*, Upon occaſion of a *Subpœna* ſerved on Mr. *Brereton*, it was agreed by the whole Houſe that the ſerving of a *Subpœna* upon a Member of this Houſe,

House, knowing him to be a Parliament Man, is a breach of Priviledge, and *Napper* who served the *Subpœna* was committed.

Arrest.

33 *Eliz.* The Sheriffs of *London* were fined by the Commons, and sent to the Tower, for not delivering Burgess arrested for Debt, sitting the Parliament.

6. *April*, 1593. The Serjeant at the Mace, who arrested Mr. *Neal*, a Member of this House, upon an Execution; as also *Weblin*, at whose Suit he was arrested, contrary to the Priviledge of this *House*, were this day brought to the Bar, and were both committed Prisoners to the Tower; and the Serjeant at Arms attending this *House*, was ordered to deliver them over to the Lieutenant of the Tower.

Utlary.

13. *May*, 1607. *Nicholas Allen* an Attorney, and *Palmer*, at whose suit Mr. *Martin*, a Member of this House, was outlawed, were ordered to be sent for by the Serjeant, and brought to the Bar to answer their Contempt.

Attachment.

In the same Parliament, there being complaint, that an Attachment was taken forth against Mr. *Belingham*, a Member of this *House*, out of the Court of Chancery, for a Contempt; the *House* ordered to have Priviledge, and a Letter was ordered to be sent to Mr. *Evelin*, one of the six Clerks, to stay the Suit.

Issues.

A Writ of Petition being issued out, a Writ was directed to the Sheriff, to levy xx. l. Issues upon Sir *Robert Oxenbridge*, for Non-appearance; the same was complained of, and the *House* granted Priviledge, with this, That if the Issues were not discharged before the next day at night, the parties Delinquent were the day after to be brought to the Bar by the Serjeant.

Tryals.

14. *May*, 1576. Sir *Edward Montague*, a Member of the *House*, was warned to attend a Tryal in *London*, which was to be had against him; and was by Order of the *House* priviledged; and the party that gave the

warning, was ſummoned to appear at the Bar the next morning.

21. *Feb.* 1588. Upon Motion made by divers Members of the *Houſe*, having Writs of *Niſi prius* brought againſt them, that Writs of *Superſedeas* might be awarded, in reſpect of the Priviledge of this *Houſe*, due to the Members: It was Ordered, That thoſe Members of the *Houſe*, who have occaſion of ſuch Priviledge, ſhould declare their Caſe to the Speaker, who ſhall thereupon direct the Warrant of this *Houſe* to the Lord Chancellour for awarding ſuch Writ of *Superſedeas*.

3 *Martii*. 18 *Jacobi*, Upon a Report from a Committee appointed to conſider of a way of ſtaying Tryals againſt Members of the Houſe; That by ſeveral Precedents, the Cuſtom appeared to be in ſuch Caſes, That on Motions and Orders in the Houſe, Letters were written to the Juſtices of Aſſize for ſtay of Tryals againſt Members of the Houſe; which Letters were entred in the Journal Book, and that it belongeth to the Clerk to write the ſame. It was thereupon reſolved, That the former courſe of writing Letters to the Juſtices of Aſſize, ſhould be held according to former Precedents.

10 *Junii*, 1607. Sir *Robert Johnſon* a Member of the Houſe moved for a Letter to ſtay a Tryal againſt him in the Exchequer, which was granted, as appeareth by the Entry on the 13th day, when a Petition of Sir *Robert Brett* was read againſt that Priviledge. The Priviledge formerly granted was affirmed, upon this Reaſon. That no man ſhould have any thing to withdraw him from his Service in the Houſe. The like 14 *Feb.* 18 *Jacobi*.

And ſo much this Priviledge hath been inſiſted on by the Houſe, that it hath been a Queſtion, Whether any Member of the Houſe could conſent that himſelf ſhould be ſued during the Seſſion; becauſe the Priviledge is not the perſons ſo much as the Houſes: And therefore, when any perſon hath been brought to the Bar for any Offence of this nature, the Speaker hath uſually charged the perſon in the name of the whole Houſe, as a breach of the Priviledge of the Houſe.

And when, 3. *June*, 1607. Sir *Thomas Holcroft* a Member of the Houſe, had occaſion to ſue at Law, and was ſued, with which he was content, and deſired the leave of the *Houſe*; there was a Queſtion, whether the *Houſe* ſhould give leave for a breach of Priviledge, and it was reſolved *The Houſe might give leave.*

Furies.

7 *Maii*, 1607. Sir *Thomas Bigg* and Sir *Thomas Love*, being returned upon an Attaint in the Kings Bench; it being moved, that in this Caſe they ought to have Priviledge: it was ſo ordered, and the Serjeant ſent with his Mace, to deliver the pleaſure of the *Houſe* to the Secundary, the Court ſitting.

22 *Novemb.* 1597. Sir *John Tracy*, a Member of this *Houſe* being at the Common-pleas Bar, to be put upon a Jury; the Serjeant at Arms was preſently ſent with his Mace to fetch him thence, to attend his Service in the *Houſe*.

Commitment.

April 12 *Jacobi*, Sir *William Bamfield* was committed by the Lord Chancellor for a Contempt, after the Writ of Summons, but before the Election. Ordered upon the Queſtion, That he ſhall have his Priviledge by Writ of *Habeas Corpus*.

Sheriff.

1 *Jacobi*. 2 *Seſſ.* Sir *John Peyton* Knight for *Cambridge* being returned the laſt Seſſion, and ſince choſen Sheriff, Mr. Speaker moved to know the pleaſure of the *Houſe*, Whether he ſhould attend his Service here: And it was reſolved upon the Queſtion in the *Houſe*; he ſhould attend his Service here.

Priviledge to Servants.

Priviledge was alſo granted to the *Servants* of *Members* during the ſitting of Parliament.

16 *Febr.* 5 *Eliz.* *Robert Parker* Servant to Sir *William Woodhouſe* Knight for *Norfolk*, being attached in *London*, at the ſuit of one *Baker*, in a Treſpaſs; had a Warrant of Priviledge, notwithſtanding Judgment given againſt him for Four Marks.

20 *Feb*, 18 *Eliz*, 1575. Upon the Queſtion, and alſo upon Diviſion of the *Houſe*, *Edward Smaley* Servant

unto *Arthur Hall* Esq; one of the Burgesses for *Grantham*, being arrested upon an Execution, had priviledge.

16 *Decembr.* 44 *Eliz.* *Anthony Curwen* servant to *William Huddleston* Esq; one of the Knights of *Cumberland*, being arrested upon a *Capias ad satisfaciendum* out of the Common-Pleas, for six pounds Debt, and Forty shillings Damages, and detained in Execution; a *Supersedeas* was awarded, and he was delivered.

11 *Maii* 19 *Jacobi*, The Under-sheriff of *Middlesex* was called to the Bar, for causing *Alexander Melling* servant to the Chancellor of the Dutchy to be arrested; he denied he knew him to be his servant: Mr. Speaker let him know, the House had ordered him to have priviledge; and therefore ordereth the Under-sheriff to discharge him.

2. Session of the Parliament 1 *Jacobi*, Sir *Edward Sandys* moveth a breach of priviledge by Sir *Robert Leigh* a Justice of Peace, for committing his Coachman to *Newgate*: Sir *Robert Leigh* was sent for by the Serjeant, and an *Habeas Corpus* for the prisoner. Sir *Robert Leigh* being brought to the Bar, acknowledged his fault, and was discharged, and so was the prisoner.

3 *Maii*, 1606. *Valentine Syre* servant and Bag-bearer to the Clerk of the Commons House, being arrested upon an Execution, was by Order and Judgment of the House enlarged.

7 *Sept.* 1601. *Woodal* servant of *William Cooke* Esq; a Member of the House, being arrested, and in prison in *Newgate*; the Serjeant at Arms was presently sent to *Newgate* to bring him to the House, *sedente Curia*; and being brought to the Bar with his Keeper, was discharged by Order of the House from his said Keeper, and from his Imprisonment.

1 *July*, 1607. *John Pasmore* the Marshals man, being sent for and brought to the Bar, for arresting *John Fessop* Waterman, servant to Sir *Henry Nevil*, a Member of the House; he denied that he knew he was Sir *Henry*'s servant until afterwards; notwithstanding, he took an *Assumpsit* from him to answer the Action: The

House

House thought fit to commit him to the Serjeant till the House's pleasure were further known, and till he had discharged the *Assumpsit*, and paid the Fees.

17. *June*. 1609. Upon a Report of the Committee for Priviledges, That a menial servant of Sir *Robert Wroth* was arrested eight days before this Session; the Serjeant was sent for the prisoner, and the Serjeant that made the arrest, one *King*, who followed it, and *Fisher* at whose suit he was arrested.

4 *Junii*, 19 *Jacobi*, *Johnson* a servant to to Sir *James Whitelock*, a Member of the Commons House, was arrested upon an Execution by *Moor* and *Lock*, who being told Sir *James Whitelock* was a Parliament man; *Fulk* one of the Persecutors said, He had known greater mens men then Sir *James Whitelock* taken from their Masters heels in Parliament time. This appearing, *Lock* and *Moor* were called into the Bar, and by the Judgment of the House were sentenced.

1. That at the Bar they should ask forgiveness of the House, and of Sir *James Whitelock* on their knees.

2. That they should both ride upon one horse bare-backed, back to back, from *Westminster* to the *Exchange*, with papers on their breasts, and this Inscription, *For Arresting a Servant of a Member of the Commons House of Parliament*: and this to be presently done *sedente Curia*: which judgment was pronounced by Mr. Speaker against them at the Bar upon their knees.

28 *Aprilis* 22. *Jacobi*, A Warrant was Ordered to be issued by the Speaker for a Writ of Priviledge, to bring up *Andrew Bates* servant to Mr. *Richard Godfrey* of the House, in Execution with the Sheriff of *Kent*, at the suit of one *Hunt*.

Goods.

That the Members of this House have also Priviledge for their Goods, is not without some Precedent.

12 *March*. 1606. Complaint was made by Mr. *James* a Burgess of Parliament, That his horse standing at his Inn was taken by the Post-masters servant; both the Post-master and his servant were sent for and brought to the Bar: *Moreton* the Post-master appearing to be ignorant

rant of what his ſervant had done, and diſavowing it was by Order of the Houſe diſcharged: But upon the teſtimony of a witneſs at the Bar, that he told the ſervant when he took the horſe, that a Member of Parliament was owner of it, the ſervant was committed.

In Adjournment.

During the Adjournment, like Priviledge was granted and affirmed.

In *Decemb.* 1606. *Thomas Finch* a Servant to Sir *Nicholas Sandys* Knight one of the Burgeſſes for *Quinborough* was arreſted during the Adjournment; which being conceived to be a great Contempt to the Priviledge of the Houſe, an *Habeas Corpus* was awarded to bring him to the Houſe, & he was accordingly brought, & alſo one *Knight*, who procured the arreſt, & *Harriſon* the Yeoman.

The excuſe was, *Finch* was an Attorney at Law, yet it being avowed by Sir *Nicholas Sandys*, that *Finch* lay in his houſe, ſolicited his Cauſes, and received Wages from him; and it being inſiſted on that all menial and neceſſary ſervants are to be priviledged and inſtance given of a Precedent of the Baron of *Walton's* ſolicitor, and *Huddleſton's* ſolicitor, in the time of Queen *Elizabeth*: upon the Queſtion, *Finch* was priviledged, and delivered according to the ſaid Precedents.

During that Adjournment, a Suit was proſecuted in the Court of Wards againſt *Nicholas Potts* Eſq; and *Francis Wethered*, Gent. Committees of a Ward which concerned Mr. *Nicholas Davyes*, ſervant to the then Speaker as Aſſignee of the Ward. The Speaker by vertue of a former general Order of the Houſe, wrote a letter to Sir *Cuthbert Pepper* ſurveyor of the Court of Wards and Liveries, to make known to the Court, That the ſaid *Davyes* was one of his Clerks and neareſt Servants, and the Priviledge now as warranable as in time of ſitting; & therefore prayed him & the Court to take notice of it.

During another Adjournment in *March* following the Speaker warranted by the like general Order, at the deſire of Sir *Edmund Ludlow*, who was ſummoned to attend the Execution of a Commiſſion out of the Chancery,

wrote

wrote a Letter to the Commiſſioners to Excuſe his attendance, & that he ſhould not be prejudiced by his abſence.

In *May*, 1607. during an Adjournment, the Speaker directed a Letter to the Lord Precident and Council at *York*, to ſtay Proceedings in a Suit againſt *Talbot Bowes* a Member of this Houſe.

Priviledge, as well before as after the Parliament.

The great Queſtion is, Within what time this priviledge may be claimed before and after the ſitting of the Parliament. It is clear, it hath been claimed and allowed for ſome time before, and after the ſitting. One Precedent may ſerve, becauſe it is famous, and for the proceedings in it *inſtar omnium*.

1 *Jacobi*, The firſt day of ſitting, complaint was made, That Sir *Thomas Shirley* choſen a Member of the Houſe, was arreſted four days before the ſitting of this Parliament; a Warrant iſſued to the Clerk of the Crown for a *Habeas corpus*, to bring him to the Houſe being then priſoner in the Fleet; and the Serjeant and his Yeoman were ſent for in cuſtody, who being brought to the Bar, and confeſſing their fault, were remitted for that time: The Writ being not executed, the Houſe fell again into Debate touching the priviledge, and how the Debt to the party might be ſatisfied becauſe the Debt was gone if the party were delivered; and thereupon came to three Queſtions:

1. Whether Sir *Thomas Shirley* ſhall have priviledge.

2. Whether preſently, or to be deferred till further Order.

3. Whether the Houſe ſhould be petitioners to the King, according to former Precedents, for ſome courſe, for ſecuring the Debt to the party, and ſaving harmleſs the Warden of the *Fleet*. All which Queſtions were reſolved in the Affirmative, and a Bill drawn to ſecure *Simpſons* Debt, &c. which alſo produced a Bill for relief of Plantiffs in Writs of Execution, where the Defendants in ſuch Writs are arreſted, and ſet at liberty by priviledge of Parliament.

17. *April*, Upon hearing Council in the Houſe at the Bar,

Bar, for Sir *Thomas Shirley* and the Warden of the *Fleet*; and upon ſhewing divers Precedents, 39. *Hen.* 6. one *Clark* taken in Execution before the Parliament begun, was priviledged 30 *Hen.* 6. *Ferrers* Caſe in *Hollingsheads* Chronicle; the Caſe of *Huddleſton*'s ſervant before remembred; this being added, that his Body was freed, but his Lands and Goods left ſubject. It was Ordered, That *Simpſon* at whoſe Suit, and the Serjeant by whom the Arreſt was made, ſhould be committed to the Tower.

4. *May* following, an *Habeas Corpus* was awarded to the Warden, to bring Sir *Thomas Shirley* to the Houſe; the Warden denied to execute it, for which 7. *May* following, he was ſent for by the Serjeant, and brought to the Bar, who denying to bring his priſoner, a new Writ of *Habeas Corpus* was awarded, and the Warden was committed to the Serjeant, with this, That if that Writ were not executed, then he ſhould be delivered over to the Lieutenant of the Tower, as the Houſe's priſoner.

8 *May*, The Serjeant was ſent with his Mace to the *Fleet*, the Houſe ſitting, to require the Body of Sir *Thomas Shirley*, being directed by the Houſe to purſue the Precedent of *Ferrers*, recorded in *Hollingſhead*'s Chronicle, and in the Book of Juriſdiction of Courts by *Crompton*: but the Serjeant being denied, a Warrant was made to the Serjeant, to deliver the Warden of the *Fleet* to the Lieutenant of the Tower, to be kept cloſe priſoner.

11 *May*, The Warden was again ſent for, and brought to the Bar, and refuſing to deliver up his priſoner, he was committed to the place called the Dungeon, or little-eaſe, in the Tower.

14 *May*, A new Warrant was ordered for a new Writ of *Habeas Corpus*, and that the Serjeant ſhould go with the Writ; that the Warden ſhould be brought to the Door of the *Fleet* by the Lieutenant himſelf; and there the Writ to be delivered to him, and the Commandment of the Houſe to be made known to him by the Serjeant, for the Executing of it. That in the mean time,

time, the Warden to be preſently committed to the Dungeon and after to be returned thither again.

18. *May*. The Warden did deliver Sir *Thomas Shirley*, and ſo was not put into the Dungeon.

19. *May*, He attending at the door, was brought in to the Bar, where, upon his Knees, confeſſing his error and preſumption, and profeſſing he was unfeignedly ſorry he had ſo offended this Honourable Houſe; Upon that ſubmiſſion, by direction of the Houſe, the Speaker pronounced his pardon and diſcharge, paying ordinary Fees to the Clerk and the Serjeant

That this priviledge doth take place by force of Election, and that before the Return be made, appears by the proceeding in the Caſe following.

19. *November*, 1601. Upon Information to the Houſe, that one *Roger Baſton* ſervant unto *Leicton*, Baron of *Walton*, who upon credible report of divers Members of the Houſe, was affirmed to be choſen a Burgeſs for the Borough of *Newton* in *Lancaſhire*, bet not yet returned by the Clerk of the Crown) had been during that Seſſion of Parliament arreſted in *London*, at the Suit of one *Muſcle*; the ſaid *Muſcle*, together with the Officer that made the arreſt, were ſent for by the Serjeant and brought to the Bar; and there charged by Mr. Speaker in the name of the whole Houſe, with their Offence herein: and having been heard, *Baſton* was ordered to have priviledge, and to be diſcharged of his Arreſt and Impriſonment, and the Offenders for three days committed to the Serjeant; and ordered to pay ſuch Charges to *Baſton*, as the Speaker ſhall ſet down, and their Fees.

For how long time before, and after the Parliament.

By theſe Inſtances, as alſo by *Clarks* Caſe, 39 *Hen.* 6. and the Caſe of Sir *Roberts Wroths* ſervant before recited, it appeareth, That priviledge doth take place before the Parliament begin, but for what time is the Queſtion: what appears by the Journal Book tending to clear it, is thus.

6. *March*, 1486. This day *William White* brought to

to the Bar, for arreſting Mr. *Martin*, a Member of the Houſe, That the Arreſt was above fourteen days before the beginning of the Parliament: the Houſe thereupon appointed a Committee to ſearch the Precedents.

Upon Report made, that Mr. *Martin* was arreſted above twenty days of the beginning of the Parliament, held by prorogation; and upon Debate, the Houſe being divided in opinion about the priviledge; for the ending of the buſineſs, three Queſtions were propounded by the Speaker.

1. Whether the Houſe would limit a time certain, or a Reaſonable time, to any Member of the Houſe for his priviledge?

The Houſe anſwered, *A Convenient time.*

2. Whether Mr. *Martin* was arreſted within this Convenient time?

The Houſe anſwered, *Yea.*

3. If *White* ſhould be puniſhed for arreſting Mr. *Martin*?

The Houſe anſwered, *No.* And the reaſon is given, Becauſe the arreſt was twenty days before the beginning of the Parliament, and the Creditors did not know what ſhould be taken for a Reaſonable time.

24 *April.* 1640. It was this day ſaid in the Houſe, and not contradicted, that every Member of the Houſe hath priviledge for ſixteen days *excluſive*, and fifteen days *incluſive*, before and after every Parliament.

The like mention is made in ſeveral Parliaments, by Members in Debate.

How Obtained.

For the manner of Obtaining this priviledge, 21 *March* 18 *Jacobi.* It was reſolved, that no protection under any Mans hand of this Houſe is good.

22. *Febr.* 6. *Edw.* 6. It is Ordered, that if any Burgeſs required Priviledge for Himſelf or his Servant, upon declaration thereof to the Speaker, he ſhould have a Warrant ſigned by Mr. Speaker to obtain the Writ.

22. *Febr.* 18, *Eliz. Aug.* 1575. A report was made by the Attorney of the Dutchy from a Committee for deliver

delivery of *Smaley* a Servant to *Arthur Hall*, before mentioned, that they found no Precedent, for ſetting at large by the Mace any Perſon in Arreſt, but only by Writ. And that by divers Precedents of Record peruſed by them; it appears, that every Knight, Citizen, or Burgeſs of this Houſe, which doth require Priviledge, hath uſed in that Caſe to take a Corporal Oath before the Lord Chancellour or Lord Keeper. That the party for whom ſuch Writ is prayed, came up with him, and was his Servant, at the time of the Arreſt made. But on the 27th *Febr.* after ſundry Reaſons, Arguments and Diſputations in the Houſe; It was Reſolved, that the ſaid *Smaley* ſhould be brought the next day to the Bar by the Serjeant, and ſo ſet at Liberty by Warrant of the Mace, and not by Writ.

According to which Reſolution, the next day *Smaley* was brought to the Bar in the Houſe by the Serjeant, accompanyed with two Serjeants of *London*, and was preſently delivered from his Impriſonment, and Execution, according to the former Judgement of this Houſe, and the ſaid Serjeants deſcharged of their ſaid priſoner.

2. *March.* 1592. Upon a Report from the Committee of Priviledges and Elections; that one Mr. *Fitzherbert* was returned a Burgeſs, and excepeted againſt, becauſe he was alledged to be Out-lawed, and detained upon ſuch Out-lawry: The Houſe Ordered, that Mr. Speaker ſhould move the Lord Keeper for an *Habeas Corpius cum cauſa*, to bring up the Body and Cauſe of Mr. *Fitzherbert*.

But the next day Sir *Henry Knivet* entring into a Diſcourſe, touching the Priviledges of the Houſe of ancient times, uſed and accuſtomed for the conventing of any perſons into this Court, declared his opinion, That Mr. *Fitzherbert* was rather to be called to appear in this Houſe by the Serjeants Mace of this Houſe, then any Writ of the Chancery, and quoted a Caſe of *George Ferrers*; but was put in remembrance by Mr. Speaker that the manner for the bringing Mr. *Fitzherbert* had received the Order of the Houſe yeſterday, and was therefore now

neither

neither to be recalled, nor further treated of by this Houſe, till the Appearance of the ſaid Mr. *Fitzherbert* be firſt made in this Houſe, according to the ſaid former Order for the ſame.

On the 7th of the ſame Month, The Houſe being acquainted by ſir *Edward Hobby*, that the Lord Keeper having been moved for a Writ of *Habeas corpus cum cauſa*, for Mr. *Fitzherbert*, his Lordſhip thought it beſt, in regard of the ancient Liberties and Priviledges of this Houſe, That the Serjeant at Arms be ſent, by Order of this Houſe, for the ſaid Mr. *Fitzherbert*, at his own charge; by reaſon whereof he may be brought hither to the Houſe, without peril of further being arreſted by the way: which was alſo approved of.

Injuries offered to the Members and their ſervants, during the Seſſion, have been uſually puniſhed by the Houſe, upon Complaint.

29. *Febr.* 1575. One *Williams*, for aſſaulting a Burgeſs of this Houſe, was upon Complaint ſent for by the Serjeant, and brought to the Bar, and Committed to the Serjeants Ward.

23 *April.* 1. *Mariæ.* One *Monington* for ſtricking *William Johnſon* a Burgeſs, was ſent for, and confeſſing it, was Committed to the Tower.

28. *Nov.* 1601. Complaint being made by Mr. *Fleetwood* a Member of the Houſe, that one *Holland* a Scriviner, and one *Brooks* his ſervant, had evil Intreated and beaten the ſervant of the ſaid Mr. *Fleetwood* in his preſence; they were both ſent for by the Serjeant, and brought to the Bar; and for the ſaid Offence Committed for five days to the Serjeant.

12 *Febr.* 18. *Jacobi*, Mr. *Lovell*, a Member of the Houſe, informed, that one *Daryell* threatned his perſon, That for a ſpeech ſpoken by him in the Houſe, he ſhould be ſent to the Tower during the Parliament, or preſently after: *Daryell* was ſent for by the Serjeant, to Anſwer it to the Houſe; and upon Teſtimony of it he was Committed to the Serjeant till *Thurſday* following, and then to acknowledge his fault, or to be Com-

Committed to the Tower.

16. *June* 1604. Complaint being made of one *Tho. Rogers*, a Currier dwelling in *Cole-man-ſtreet*, for abuſing *Sir John Savill* in ſlanderous and unſeemly terms, upon his proceedings, at a Committee in the Bill touching Tanners. &c. he was ſent for by the Serjeant at Arms to the Bar, to anſwer his offence.

CHAP. XIV.

Amendment of Returns.

18 *Jacobi*, The Sheriff of *Liceſterſhire* having returned Sir *Thomas Beaumont*; upon Report from the Committee for Elections, That Sir *George Haſtings* was duely choſen, the Sheriff was ordered to return Sir *George Haſtings* to the Clerk of the Crown, and he to accept it, and file it.

21 *Jacobi*, Upon Report from the Committee of Priviledges, That in the Election of Mr. *John Maynard* for *Chippingham*; Mr. *John Maynard* was choſen, but by a miſtake, *Charles* was afterward written in ſtead of *John*: It was reſolved, The Return ſhould be amended without a new Writ; and the Queſtion being, who ſhould amend it: Reſolved, The Baliff ſhould do it, and not the Clerk of the Crown; and that it ſhould be ſent down to the Bayliff in the Countrey, and he to return *John Maynard* Eſq; the firſt Burgeſs.

1 *Febr.* 1640. It being Reſolved, That the Election of Mr. *Erle* for one of the Burgeſſes of *Wareham.* is a good Election; It was Ordered, That the Officer, that was the Officer when the Return was made or his Deputy, or the Electors, ſhould amend the Return. But the next day it was Ordered, That *Edward Harbin*, the late Mayor of *Wareham's* Deputy, ſhould come to the Bar of the Houſe, and amend the Return.

20 *Febr.* 1640. The Bayliff of *Midhurſt* in *Suſſex* came to the Bar, (being ſent for by Order of the Houſe) and amended one of the Indentures of Return of Burgeſſes for that Town, and the other was taken off the File.

FINIS.

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